

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
304 U.S. COURTHOUSE
68 COURT STREET
BUFFALO, NEW YORK 14202-3498
(716) 551-4211

Clerk
United States District Court
Northern District of California
Philip Burton U.S. Courthouse
16th Floor
450 Golden Gate Avenue
San Francisco, CA 94102-3434

10/1/07

FILED

OCT 9 - 2007

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA

CR-07-00583-JW

RE: Transfer of Jurisdiction
05-CR-104

Dear Clerk:

Enclosed are certified copies of the Transfer of Jurisdiction of Bo Lam along with the docket sheet, Indictment, Plea Agreement and Judgment from our file.

Please return the enclosed copy of our letter with your court's case/reference number.

Very truly yours,

RODNEY C. EARLY, Clerk

By: S/ Jane D. Kellogg
Deputy Clerk

Enclosures

acknowledgments recpt - emailed 10/9/07

CR-07 00583

09-23
11/2/88ORIGINAL
FILED

07 SEP 12 PM 3:09

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT

TRANSFER OF JURISDICTION

DOCKET NUMBER (Tran. Court)

05CR00104-001

DOCKET NUMBER (Rec. Court)

NAME AND ADDRESS OF PROBATIONER/SUPERVISED RELEASEE

Bo Lam
1104 Jarvis Avenue
San Jose, CA 95118

DISTRICT

WD/NY

DIVISION

Buffalo

NAME OF SENTENCING JUDGE

William M. Skretny, U.S. District Judge

DATES OF PROBATION/
SUPERVISED RELEASE

FROM

07/24/07

TO

07/23/10

OFFENSE

Conspiracy to Possess with Intent to Distribute 50 Kilograms or More of Marijuana in violation of T21:846 as it relates to T21:841(a)(1) and §841(b)(1)(C).

PART 1 - ORDER TRANSFERRING JURISDICTION

UNITED STATES DISTRICT COURT FOR THE Western DISTRICT OF New York

IT IS HEREBY ORDERED that pursuant to 18 U.S.C. 3605 the jurisdiction of the probationer or supervised releasee named above be transferred with the records of this Court to the United States District Court for the Northern District of California upon that Court's order of acceptance of jurisdiction. This Court hereby expressly consents that the period of probation or supervised release may be changed by the District Court to which this transfer is made without further inquiry of this court.* Collection of restitution will be maintained by the sentencing district if the case is Joint and Several with other defendants.

08/21/07

DATE

UNITED STATES DISTRICT JUDGE

*This sentence may be deleted in the discretion of the transferring Court.

PART 2 - ORDER ACCEPTING JURISDICTION

UNITED STATES DISTRICT COURT FOR THE Northern DISTRICT OF California

IT IS HEREBY ORDERED that jurisdiction over the above-named probationer/supervised releasee be accepted and assumed by this Court from and after the entry of this order.

9/6/07

EFFECTIVE DATE

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

WESTERN

District of NEW YORK

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

BO LAM

Case Number: 1:05CR00104-001

USM Number: 13863-055

Kevin W. Spitler
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) I☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §846 as it relates to 21 U.S.C. §841(a)(1) and §841(b)(1)(C)	Conspiracy to Possess with Intent to Distribute 50 Kilograms or More of Marijuana	11/23/2004	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

February 27, 2007

Date of Imposition of Judgment

Signature of Judge

ATTEST A TRUE COPY
U.S. DISTRICT COURT, N.Y.
ROBERT G. EARLY, CLERKBy: Robert G. Early

Clerk

Original Filed 3-8-07WILLIAM M. SKRETNY, U.S. District Judge
Name and Title of JudgeDate 3/7/07

245B (Rev. 12/03) Judgment in Criminal Case
Sheet 2 — Imprisonment

Judgment — Page 2 of 6

DEFENDANT: BO LAM
CASE NUMBER: 1:05CR00104-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 33 months. *The cost of incarceration fee is waived.*

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: BO LAM
 CASE NUMBER: 1:05CR00104-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : three (3) years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as required by the Justice for All Act of 2004. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: BO LAM
CASE NUMBER: 1:05CR00104-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to substance abuse testing, to include urinalysis and other testing. Details of such testing to be approved by the U.S. Probation Office. If substance abuse is indicated by testing, the defendant is to complete a drug/alcohol evaluation and enter into any treatment as deemed necessary by the U.S. Probation Office and/or the Court. The defendant is not to leave treatment until discharge is agreed to by the U.S. Probation Office and/or the Court. While in treatment and after discharge from treatment, the defendant is to abstain from the use of alcohol. The defendant is required to contribute to the cost of services rendered (co-payment in the amount to be determined by the U.S. Probation Office based on the ability to pay or availability of third party payment).

The defendant shall submit to a search of his person, property, vehicle, place of residence or any other property under his control and permit confiscation of any evidence or contraband discovered.

The defendant shall provide the U.S. Probation Office with access to any requested personal and/or business financial information. The U.S. Probation Office is authorized to release pre-sentence and post-sentence financial information submitted by the defendant to the U.S. Attorney's Office for use in the collection of any unpaid fine or restitution. If restitution or a fine is owed, the defendant shall notify the U.S. Probation Office of any assets received and shall not disburse his/her interest in any assets, including, but not limited to, income tax refunds, inheritance, insurance and lawsuit settlements, or gambling winnings without the approval of the U.S. Probation Office.

The defendant must demonstrate good faith effort to maintain gainful employment.

AO 245B (Rev. 12/03) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary Penalties

Judgment — Page 5 of 6

DEFENDANT: BO LAM
CASE NUMBER: 1:05CR00104-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100	\$ 0	\$ 0

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS \$ _____ \$ _____

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: BO LAM
CASE NUMBER: 1:05CR00104-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- The defendant shall pay a special assessment of \$100, which shall be due immediately. If incarcerated, payment shall begin under the Bureau of Prisons Inmate Financial Responsibility Program. Payments shall be made to the Clerk, U.S. District Court, Attention: Finance, Room 304, United States Courthouse, 68 Court Street, Buffalo, New York 14202.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York**

MAY 2004 GRAND JURY
(Impaneled 5/07/04)

THE UNITED STATES OF AMERICA

INDICTMENT

v.

**BO LAM,
HUNG THE NGUYEN, and
TUYEN TRAN**

Violation:

Title 21, United States Code,
Section 846.

ATTEST A TRUE COPY
U.S. DISTRICT COURT, W.D. NY
RODNEY C. EARLY, CLERK

By 
Clerk

COUNT 1

Original Filed 4-19-05

The Grand Jury Charges that:

From on or about the 22nd day of November, 2004, through the 23rd day of November, 2004, in the Western District of New York, and elsewhere, the defendants, **BO LAM, HUNG THE NGUYEN** and **TUYEN TRAN**, did knowingly, willfully and unlawfully combine, conspire and agree together and with others, known and unknown, to commit an offense against the United States, that is, to possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I

controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C); all in violation of Title 21, United States Code, Section 846.

DATED: Buffalo, New York, April 19, 2005.

MICHAEL A. BATTLE
United States Attorney

BY: S/JOSEPH J. KARASZEWSKI
JOSEPH J. KARASZEWSKI
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716/843-5837
Joseph.J.Karaszewski@usdoj.gov

A TRUE BILL:

S/DEPUTY FOREPERSON
FOREPERSON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

NOT A TRUE COPY.
COURT, W.D.N.Y.
CLERK

James D. Kellogg

UNITED STATES OF AMERICA :

Original 11-3-06

-v- :

BO LAM, :

05-CR-104-S

Defendant. :

FILED
U.S. DISTRICT COURT
W.D.N.Y. BUFFALO
2006 NOV -8 PM 12:24

PLEA AGREEMENT

The defendant, BO LAM, and the United States Attorney for the Western District of New York (hereinafter "the government") hereby enter into a plea agreement with the terms and conditions as set out below.

I. THE PLEA AND POSSIBLE SENTENCE

1. The defendant agrees to plead guilty to Count one of the Indictment which charges a violation of Title 21, United States Code, Section 846 [conspiracy to import 50 kilograms or more of marijuana] which carries a maximum possible sentence of a term of imprisonment of 20 years, a fine of \$1,000,000, or both, a mandatory \$100 special assessment and a term of supervised release of at least 3 years and up to life. The defendant understands that the penalties set forth in this paragraph are the maximum penalties that can be imposed by the Court at sentencing.

2. The defendant understands that, if it is determined that the defendant has violated any of the terms or conditions of supervised release, the defendant may be required to serve in prison all or part of the term of supervised release, up to 2 years, without credit for time previously served on supervised release. As a consequence, in the event the defendant is sentenced to the maximum term of incarceration, a prison term imposed for a violation of supervised release may result in the defendant serving a sentence of imprisonment longer than the statutory maximum set forth in paragraph 1 of this agreement.

II. SENTENCING GUIDELINES

3. The defendant understands that the Court must consider but is not bound by the Sentencing Guidelines (Sentencing Reform Act of 1984).

ELEMENTS OF THE CRIME

4. The defendant understands the nature of the offense set forth in paragraph 1 of this agreement and understands that if this case proceeded to trial, the government would be required to prove beyond a reasonable doubt the following elements of the crime: that an agreement existed between two or more persons to commit a controlled substance felony offense, that the defendant

knew of the existence of the agreement, that the defendant intended to participate in the unlawful agreement and that at least 50 kilograms of a mixture or substance containing marijuana* was reasonably foreseeable to the defendant as being within the scope of the agreement.

FACTUAL BASIS

5. The defendant and the government agree to the following facts, which form the basis for the entry of the plea of guilty including relevant conduct:

a) From on or about November 22, 2004, though November 23, 2004, in Cheektowaga, New York, and elsewhere, the defendant, did conspire with others known and unknown, to import an amount of marijuana into the United States from Canada. On November 22, 2004 a truck driver was stopped at the Peace bridge port of entry in Buffalo, New York. After being stopped the truck was sent to secondary inspection where a search of the truck resulted in the seizure of a quantity of marijuana. After his arrest the truck driver agreed to cooperate with USICE agents. At this time the truck driver stated that he was to meet and deliver half of the marijuana to an individual at a truck stop located at exit 52 of Interstate 90 in Cheektowaga, New York.

The truck driver and agents waited at the truck stop for the arrival of the defendant. When defendant arrived he backed his vehicle up to the rear of the tractor trailer and opened the rear hatchback of his vehicle. Defendant then went to the cab of the truck and spoke with the truck driver regarding the transfer of marijuana from the truck to his

vehicle. At this time defendant was arrested. After arrest a search of defendant's vehicle resulted in the seizure of approximately \$262,000 which represented the purchase price of the marijuana.

b) approximately 72 kilograms of marijuana is the amount involved in the defendant's relevant conduct encompassed in Count one of the Indictment which could be readily proven by the government against the defendant.

BASE OFFENSE LEVEL

6. The government and the defendant agree that Guidelines §§ 2D1.1(a)(3) and 2D1.1(c)(9) apply to the offense of conviction and provides for a base offense level of 22.

ACCEPTANCE OF RESPONSIBILITY

7. At sentencing, the government agrees not to oppose the recommendation that the Court apply the two (2) level downward adjustment of Guidelines §3E1.1(a) (acceptance of responsibility) and further agrees to move the Court to apply the additional one (1) level downward adjustment of Guidelines §3E1.1(b), which would result in a total offense level of 19.

CRIMINAL HISTORY CATEGORY

8. It is the understanding of the government and the defendant that the defendant's criminal history category is I.

The defendant understands that if the defendant is sentenced for, or convicted of, any other charges prior to sentencing in this action the defendant's criminal history category may increase. The defendant understands that the defendant has no right to withdraw the plea of guilty based on the Court's determination of the defendant's criminal history category.

GUIDELINES' APPLICATION, CALCULATIONS AND IMPACT

9. It is the understanding of the government and the defendant that, with a total offense level of 19 and criminal history category of I, the defendant's sentencing range would be a term of imprisonment of 30 to 37 months, a fine of \$6,000 to \$1,000,000, and a period of supervised release of 3 years. Notwithstanding this, the defendant understands that at sentencing the defendant is subject to the maximum penalties set forth in paragraph 1 of this agreement.

10. The government and the defendant agree to recommend that the defendant be sentenced within the Sentencing Guidelines range set forth above. A breach of this paragraph by one party will relieve the other party of any agreements made in this plea agreement with respect to sentencing motions and recommendations.

11. The defendant understands that the Court is not bound to accept any Sentencing Guidelines calculations set forth in this agreement and the defendant will not be entitled to withdraw the plea of guilty based on the sentence imposed by the Court.

III. STATUTE OF LIMITATIONS

12. In the event the defendant's plea of guilty is withdrawn, or conviction(s) vacated, either pre- or post-sentence, by way of appeal, motion, post-conviction proceeding, collateral attack or otherwise, the defendant agrees that any charges dismissed pursuant to this agreement shall be automatically reinstated upon motion of the government and further agrees not to assert the statute of limitations as a defense to any other criminal offense involving or related to the unlawful importation, possession, manufacture or distribution of controlled substances which is not time barred as of the date of this agreement. This waiver shall be effective for a period of six months following the date upon which the withdrawal of the guilty plea(s) or vacating of the conviction becomes final.

IV. ALIEN STATUS

13. The defendant understands that, as the defendant is not

a citizen of the United States, a conviction in this action may affect the defendant's right to enter and/or reside in the United States.

V. GOVERNMENT RIGHTS AND RESERVATIONS

14. At sentencing, the government agrees not to oppose the recommendation that the Court sentence the defendant at the lowest point of the applicable Guidelines range .

15. The defendant understands that the government has reserved the right to:

a. provide to the Probation Office and the Court all the information and evidence in its possession that the government deems relevant concerning the defendant's background, character and involvement in the offense charged, the circumstances surrounding the charge and the defendant's criminal history;

b. respond at sentencing to any statements made by the defendant or on the defendant's behalf that are inconsistent with the information and evidence available to the government;

c. modify its position with respect to any sentencing recommendation or sentencing factor under the Guidelines including criminal history category, in the event that subsequent to this agreement the government receives previously unknown information regarding the recommendation or factor;

16. The defendant agrees that any financial records and information provided by the defendant to the Probation Office, before or after sentencing, may be disclosed to the United States Attorney's Office for use in the collection of any unpaid financial obligation.

VI. APPEAL RIGHTS

17. The defendant understands that Title 18, United States Code, Section 3742 affords a defendant a limited right to appeal the sentence imposed. The defendant, however, knowingly waives the right to appeal, modify pursuant to Title 18, United States Code, Section 3582(c)(2) and collaterally attack any component of a sentence imposed by the Court which falls within or is less than the sentencing range for imprisonment, a fine and supervised release set forth in Section II, ¶9 above, notwithstanding the manner in which the Court determines the sentence.

18. The defendant understands that by agreeing to not collaterally attack the sentence, the defendant is waiving the right to challenge the sentence in the event that in the future the defendant becomes aware of previously unknown facts or a change in the law which the defendant believes would justify a decrease in the defendant's sentence.

19. The government waives its right to appeal any component of a sentence imposed by the Court which falls within or is greater than the sentencing range for imprisonment, a fine and supervised release set forth in Section II, ~~19~~ above, notwithstanding the manner in which the Court determines the sentence. However, in the event of an appeal from the defendant's sentence by the defendant, the government reserves its right to argue the correctness of the defendant's sentence.

VII. TOTAL AGREEMENT AND AFFIRMATIONS

20. This plea agreement represents the total agreement between the defendant, BO LAM, and the government. There are no promises made by anyone other than those contained in this agreement. This agreement supersedes any other prior agreements, written or oral, entered into between the government and the defendant.

TERRANCE P. FLYNN
United States Attorney
Western District of New York


BY:



FREDERICK J. PLATEK
Assistant U. S. Attorney

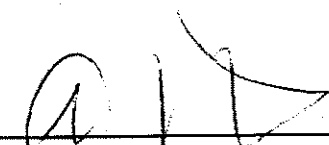
Dated: 11/8, 2006

I have read this agreement, which consists of 10 pages. I have had a full opportunity to discuss this agreement with my attorney, ALAN GOLDSTEIN, Esq. I agree that it represents the total agreement reached between myself and the government. No promises or representations have been made to me other than what is contained in this agreement. I understand all of the consequences of my plea of guilty. I fully agree with the contents of this agreement. I am signing this agreement voluntarily and of my own free will.



BO LAM
Defendant

Dated: 11/3, 2006



ALAN GOLDSTEIN, Esq.
Attorney for the Defendant

Dated: 11/8, 2006

United States District Court

WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

BO LAM (DOB 01-01-1972),
HUNG THE NGUYEN (DOB 07-07-1971), and
TUYEN TRAN (DOB 07-11-1969)

CASE NUMBER: 04-M- 1213-01
-02
-03

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. From on or about November 22, 2004 through November 23, 2004, in Erie County, in the Western District of New York Defendants did, (Track Statutory Language of Offense)


conspire to import into the United States from Canada 100 kilograms or more of a mixture and substance containing marijuana, a Schedule I controlled substance,

in violation of Title 21 United States Code, Section(s) 963.

I further state that I am a Special Agent with the Bureau of Immigration and Customs Enforcement and that this complaint is based on the following facts: Official Title

See attached affidavit.

Continued on the attached sheet and made a part hereof: (X) Yes () No


Signature of Complainant
ROBERT R. JOHNSTON
Special Agent
Bureau of Immigration and Customs
Enforcement

Sworn to before me and subscribed in my presence,

November 23rd, 2004 at Buffalo, New York
Date City and State

HONORABLE LESLIE G. FOSCHIO
U.S. MAGISTRATE JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

A F F I D A V I T

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

ROBERT R. JOHNSTON, being duly sworn, deposes and says:

1. I am employed with the United States Bureau of Immigration and Customs Enforcement within the Department of Homeland Security as a Special Agent and have been so employed since March 21, 2003. In such capacity, my duties include the investigation of suspected violations of federal law as they pertain to United States Customs laws. Prior to this, I was employed with the Aiken County Sheriffs Office from 1997-2003. Three of these years were as a Criminal Investigator.

2. I make this affidavit in support of a criminal complaint against BO LAM (DOB 01-01-1972), 4104 Jarvis Avenue, San Jose, California, HUNG THE NGUYEN (DOB 07-07-1971), 5073 Bengal Drive, San Jose, California, and TUYEN TRAN (DOB 07-11-1969). This affidavit is submitted for a limited purpose, and as such I have not included details of every aspect of this investigation. I am thoroughly familiar with the information contained in this

affidavit, either through personal investigation or through discussions with other law enforcement officers who interviewed individuals or personally have obtained information, which they in turn have reported to me.

3. The facts in support of this criminal complaint are as follows:

a. On November 22, 2004, at approximately 10:16 p.m., an individual attempted entry into the United States from Canada in a tractor-trailer at the Peace Bridge, Port of Entry, Buffalo, New York. During secondary inspection of the vehicle, approximately 270 pounds of suspected marijuana was discovered in the rear of the trailer, hidden in two pallets of household flour. A field test was performed on a portion of the substance and it exhibited a positive response for the presence of marijuana, a Schedule I controlled substance.

b. At approximately 11:59 p.m., Special Agent Mark Riemann and your affiant interviewed the individual, and he/she stated that he/she had loaded the pallets with ten boxes of marijuana and covered the marijuana with bags of flour. He/She advised that after clearing U.S. Customs, he/she was supposed to meet

individuals at Exits 52-E and 45 on the New York State Thruway (NYS I-90) to deliver the marijuana.

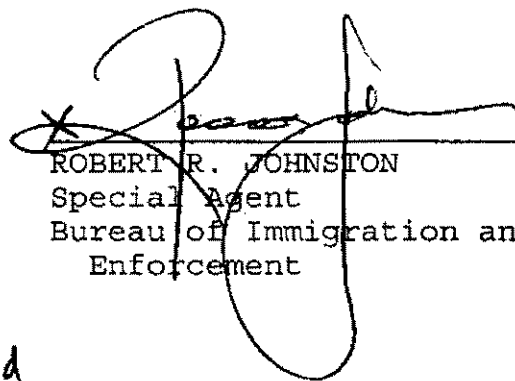
c. The individual (hereinafter CS) then agreed to cooperate with ICE and attempted to arrange a controlled delivery of the marijuana. Specifically, the CS and your Affiant placed a recorded telephone call to an individual the CS knew only as "Bo." "Bo" agreed to meet with the CS at a truck stop on Walden Avenue in Cheektowaga, New York, near Exit 52 of NYS I-90 and exchange the marijuana for cash.

d. The CS, accompanied in the tractor by an ICE Agent, and surveilled by your affiant and other agents, then drove the tractor-trailer to Jim's Truck Plaza, 2125 Walden Avenue, Cheektowaga, New York. The CS parked the tractor-trailer in the parking lot. At approximately 5:30 a.m., on November 23, 2004, a Mercury Mountaineer, bearing Illinois license number 5011762, occupied by 3 individuals, approached the tractor-trailer driven by the CS. An individual later identified as BO LAM approached the tractor trailer. The CS exited the vehicle and he/she and LAM moved to the rear of the trailer. After the CS opened the doors to the trailer, ICE Agents converged and took custody of LAM and the two individuals who had remained in the Mountaineer. The other two individuals were later identified as HUNG THE NGUYEN, who was

occupying the front passenger seat, and TUYEN TRAN, who was in the rear seat. ICE Agents found a backpack on the floor boards on the passenger side of the front seat and two shopping bags in the back seat, all of which contained U.S. currency. The currency in the three bags totaled \$262,898.

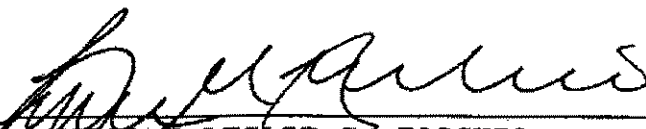
e. After having been taken into custody, TUYEN TRAN stated to agents that she had assisted BO LAM in counting the currency.

WHEREFORE, based on the foregoing, I respectfully submit that probable cause exists to believe that BO LAM, HUNG THE NGUYEN and TUYEN TRAN have conspired to import 100 kilograms or more of marijuana into the United States, in violation of 21 U.S.C. § 963.



ROBERT R. JOHNSTON
Special Agent
Bureau of Immigration and Customs
Enforcement

Sworn to before me this 23^d
day of November, 2004.



HONORABLE LESLIE G. FOSCHIO
United States Magistrate Judge

CLOSED_2007, INTERPRETER, MAG

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CRIMINAL DOCKET FOR CASE #: 1:05-cr-00104-WMS-LGF All Defendants
Internal Use Only

Case title: USA v. Lam et al
Magistrate judge case number: 1:04-mj-01213-LGF

Date Filed: 04/19/2005
Date Terminated: 03/08/2007

Assigned to: Hon. William M. Skretny
Referred to: Hon. Leslie G. Foschio

Defendant

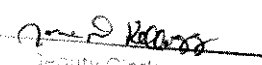
Bo Lam (1)
TERMINATED: 03/08/2007

represented by **Alan D. Goldstein**
Alan D. Goldstein, Esq. & Associates
42 Delaware Avenue
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TERMINATED: 02/16/2007
LEAD ATTORNEY
Designation: CJA Appointment

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

ATTEST: A TRUE COPY
U.S. DISTRICT COURT, WDNY
RODNEY C. EARLY, CLERK


Deputy Clerk

Pending Counts

CONSPIRACY TO DISTRIBUTE
MARIJUANA 21:846=MD.F
(1)

Disposition

The Defendant is sentenced to the custody of the BOP for a term of 33 months and a 3 year term of Supervised Release. Conditions of Supervised release are as detailed in minute entry of 2/27/2007. \$100.00 Special Assessment imposed.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

21:963=MI.F attempt/conspiracy to import marijuana into United States from Canada

Disposition

Assigned to: Hon. William M. Skretny
Referred to: Hon. Leslie G. Foschio

Defendant

Hung The Nguyen (2)
TERMINATED: 11/08/2006

represented by **Joseph B. Mistrett**
Federal Public Defender Office
300 Pearl Street
Suite 450
Buffalo, NY 14202
(716) 551-3341
Fax: 716-551-3346
Email: joseph_mistrett@fd.org
TERMINATED: 05/09/2006
LEAD ATTORNEY
Designation: Public Defender
Appointment

Robert N. Convissar
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Buffalo, NY 14202
716-856-1969
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Timothy W. Hoover
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Email: timothy_hoover@fd.org
TERMINATED: 05/09/2006

Pending Counts

CONSPIRACY TO DISTRIBUTE
MARIJUANA 21:846=MD.F
(1)

CONSPIRACY TO POSSESS
MARIJUANA all in violation of
21:846=MP.M
(1s)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Highest Offense Level (Terminated)

None

Complaints

21:963=MI.F attempt/conspiracy to
import marijuana into United States
from Canada

Disposition

The Defendant is sentenced to the
custody of the BOP for a term of time
served. No Supervised Release to
follow. \$25.00 Special Assessment
imposed.

Disposition

Disposition

Assigned to: Hon. William M. Skretny
Referred to: Hon. Leslie G. Foschio

Defendant

Tuyen Tran (3)
TERMINATED: 01/10/2007

represented by **Joseph M. LaTona**
403 Main Street
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Buffalo, NY 14203
(716) 842-0416
Fax: (716) 853-2892
Email: sandyw@tomburton.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

CONSPIRACY TO DISTRIBUTE
CONTROLLED SUBSTANCE 21:846
(1s)

Disposition

The Defendant is sentenced to the custody of the BOP for a term of time served and a 1 year term of Supervised Release. Conditions of Supervised release are as detailed in minute entry of 11/30/2006. \$25.00 Special Assessment imposed.

Highest Offense Level (Opening)

Misdemeanor

Terminated Counts

CONSPIRACY TO DISTRIBUTE
MARIJUANA 21:846=MD.F
(1)

Disposition

Dismissed.

Highest Offense Level (Terminated)

Felony

Complaints

21:963=MI.F attempt/conspiracy to
import marijuana into United States
from Canada

Disposition

Plaintiff

USA

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ATTORNEY TO BE NOTICED

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TERMINATED: 08/25/2006

Date Filed	#	Docket Text
11/23/2004	<u>1</u>	COMPLAINT as to Bo Lam (1), Hung The Nguyen (2), Tuyen Tran (3). (SDW) [1:04-mj-01213-LGF] (Entered: 11/24/2004)
11/23/2004		Minute Entry for proceedings held before Judge Leslie G. Foschio :Initial Appearance as to Bo Lam, Hung The Nguyen, Tuyen Tran held on 11/23/2004.AUSA J. Karaszewski. Dfts Bo Lam (-01), Hung Nguyen (-02), Tuyen Tran (-03). Dfts advised of their rights and charges against them. Dft Nguyen requests ct. apptd cnsl. Dft sworn and found eligible - Federal Public Defendant - Joseph Mistrett, FPD for Dft Nguyen. Dfts Lam, Tran going to retain own cnsl. Govt moving for detention for Dfts Lam and Nguyen. Dtn hrg set for 11/29/2004 at 2:00. Dft Lam, Nguyen remanded. Atty appearance for Dft Lam & Tran for 11/29/2004 at 2:00. Bail for Dft Tran - \$20,000 U.S. fully secured cash or property in United States. Limited travel to Missasaugua, Ontario area. Dft Tran remanded. AUSA to notify Canadian Consular (SDW) Modified on 11/29/2004 (LL,). [1:04-mj-01213-LGF] (Entered: 11/24/2004)
11/23/2004		E-Filing Error Corrected: Reference to defts named for detention, to wit: Govt moving for detention for Dfts Lam and Nguyen. (LL,) [1:04-mj-01213-LGF] (Entered: 11/29/2004)
11/23/2004		(Court only) ***Location start (LC) as to Bo Lam, Hung The Nguyen, Tuyen Tran (LL,) [1:04-mj-01213-LGF] (Entered: 11/29/2004)
11/23/2004	<u>2</u>	(Court only) CJA 23 Financial Affidavit by Hung The Nguyen. THIS IS A PRIVATE ENTRY. (SDW) [1:04-mj-01213-LGF] (Entered: 11/24/2004)
11/29/2004		Minute Entry for proceedings held before Judge Leslie G. Foschio :Atty Appearance Hearing/Status Conference as to Bo Lam held on 11/29/2004 Attorney Appointment Hearing set for 12/7/2004 02:00 PM before Hon. Leslie G. Foschio. Detention Hearing set for 12/7/2004 02:00 PM before Hon. Leslie G. Foschio. Deft reqs ct app atty. Deft sworn, examined and determined eligible -- CJA TRIAL PANEL ATTY TO BE DETERMINED. ATTY APPEARANCE & DETENTION HEARING SET FOR 12-7-04 AT 2 PM. Time excluded (interest of justice to obtain counsel and pending motion) -- 30 days remain, STA clock. AUSA J.

		Karaszewski, deft and USPO Z. Piotrowicz (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004		(Court only) ***Excludable started as to Bo Lam: 11/29/04 to 12/7/04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004	●	Remark : CJA PANEL ADMINISTRATOR copied on deft Lam 11-29-04 minute entry for CJA Trial panel atty assignment. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004	3	(Court only) (2) CJA 23 Financial Affidavits by Bo Lam prepared by USPO and the court. THIS IS A PRIVATE ENTRY. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Status Conference as to Hung The Nguyen held on 11/29/2004. Detention Hearing set for 12/7/2004 02:00 PM before Hon. Leslie G. Foschio. Deft reqs for adjmt until Thursday this week to facilitate phone contact with deft's brother. DETENTION HEARING SET FOR 12-7-04 AT 2 PM. Time excluded (pending motions) -- 30 days remain, STA clock. AUSA J. Karaszewski, J. Mistrett w/deft and USPO Z. Piotrowicz (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004		(Court only) ***Excludable started as to Hung The Nguyen: 11-29-04 to 12-7-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Atty Appearance/Status Conference as to Tuyen Tran held on 11/29/2004. Bail/Nebbia Hearing set for 12/1/2004 10:00 AM before Hon. Leslie G. Foschio. Atty Appearance & Preliminary Examination set for 12/7/2004 02:00 PM before Hon. Leslie G. Foschio. LIMITED ATTY APPEARANCE BY CANADIAIN COUNSEL -- ANTHONY TRAN. Atty Tran states deft Tran wishes to retain local counsel. Atty Tran oral mtn for bail modification to reduce bail as to deft Tran -- REQUEST FOR BAIL MODIFICATION DENIED. BAIL/NEBBIA HRG SET FOR 12-1-04 AT 10 AM. Court directs AUSA to prepare OTP. ATTY APPEARANCE CONT'D & PE SET FOR 12-7-04 AT 2 PM. Deft required to be present. Time excluded (continuity of counsel) -- 30 days remain, STA clock. AUSA J. Karaszewski, Anthony Tran (Canadian counsel) w/deft Tran and USPO Z. Piotrowicz (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
11/29/2004		(Court only) ***Excludable started as to Tuyen Tran: 11-29-0-4 to 12-7-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
12/01/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Bail Review held. Nebbia Hearing Scheduled, But Not Held as to Tuyen Tran held on 12/1/2004. No appearance by defense atty Tran or local counsel as to retainment or surety/sister as to bail. Court reiterates atty appearance is set for 12-7-04. AUSA states he has not heard from Atty Tran since last court appearance. Deft states her brother-in-law is to show this morning, was aware of 10 am proceeding and doesn't know why not present. AUSA recommends deft be admonished and sign Appearance

		Bond in the event surety arrives while deft in the courthouse and nebbia concerns satisfied. Appearance Bond executed by deft in the amt of \$20,000 + conditions (including surrender passport and oither conditions states on the record. Order Setting Conditions of Release executed by deft. Deft admonisihed if surety arrives and Gov't satisfied as to Nebbia concerns, processing by USPO and USMS, DEFT CAN BE RELEASED. Deft required to be present on 12-7-04 at 2 pm. Deft remanded. AUSA J. Karaszewski, deft and USPO Z. Piotrowicz. (LL,) [1:04-mj-01213-LGF] (Entered: 12/06/2004)
12/06/2004	●4	ORDER Setting Conditions of Release as to Tuyen Tran (3) \$20,000 FULLY SECURED . Signed by Judge Leslie G. Foschio on 12/1/04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/07/2004)
12/07/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Detention Hearing Scheduled, But Not Held. Status Conference as to Bo Lam, Hung The Nguyen held on 12/7/2004. Detention Hearing reset for 12/14/2004 03:30 PM before Hon. Leslie G. Foschio. As to deft Lam: ATTY APPEARANCE BY ALAN D. GOLDSTEIN AS CJA ASSIGNED COUNSEL. Goldstein reqs continuance for one week -- GRANTED WITHOUT OBJECTION. As to deft Nguyen: Mariano reqs similar continuance -- GRANTED WITHOUT OBJECTION. DETENTION HRG & SET PE (as to defts Lam and Nguyen) SCHEDULED FOR 12-14-04 AT 3:30 PM. Time excluded (pending mtns as to defts Lam and Nguyen) -- 30 days remain, STA clock. Defts remanded. AUSA J. Karaszewski, A. Goldstein w/deft Lam and M. Mariano for J. Mistrett w/deft Nguyen. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/07/2004		(Court only) Attorney update in case as to Bo Lam, Hung The Nguyen -- Attorney Alan D. Goldstein for Bo Lam added. ***Excludable started as to Bo Lam, Hung The Nguyen: 12-7-04 to 12-14-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/07/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio : Attorney Appearance Scheduled, But Not Held. Status Conference re: atty representation and bail held before Hon. Leslie G. Foschio. AUSA J. Karaszewski and deft Tran. Court query as to retaining Atty Joseph LaTona -- deft responds and reqs 2-week continuance to facilitate retaining counsel. COURT DIRECTS DEFT BE PRESENT FOR ATTY APPEARANCE SET FOR 12-21-04 AT 3:30 PM. Time excluded (continuity of counsel) -- 30 days remain, STA clock. NOTE: Preliminary Examination date to be determined on aforementioned date. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/07/2004		(Court only) ***Excludable started as to Tuyen Tran: 12-7-04 to 12-14-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/07/2004	●	Remark : Deft Tran remanded after Status Conference held 12-7-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/08/2004	●5	APPEARANCE/CASH Bond Entered as to Tuyen Tran in amount of \$

		20,000, Receipt # 100 14268. (LL,) [1:04-mj-01213-LGF] (Entered: 12/14/2004)
12/08/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Bail Review as to Tuyen Tran held on 12/8/2004 re: acceptance of surety (in-chambers): Joseph LaTona w/surety. Surety appeared to post bail amount. CRD examined surety and found acceptable after prior consultation with AUSA Karaszewski re: nebbia concerns who states Gov't is satisfied with source of funds. Appearance Bond executed. Surety directed to Clerk's Office to post bail. CRD called USMS advising bail being posted and to release deft upon showing of bail receipt. (SDW) [1:04-mj-01213-LGF] (Entered: 01/13/2005)
12/08/2004	●	Attorney update in case as to Tuyen Tran. Attorney Joseph M. LaTona for Tuyen Tran added. (LL,) [1:04-mj-01213-LGF] (Entered: 03/02/2005)
12/14/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Detention Hearing as to Bo Lam held on 12/14/2004. STATUS CONF SET for 2/15/2005 10:30 AM before Hon. Leslie G. Foschio. Goldstein states today he learned there is an immigration detainer against deft Lam and therefore not prepared to run dtn hrg -- reqs to waive hrg w/right to re-open to allow further investigation of detainer -- colloquy re: same. Gov't proffer as to deft Lam. Goldstein proffer. COURT GRANTS GOV'T MOTION FOR DETENTION -- ORDER TO FOLLOW. Court reviews its case management policy. Goldstein reqs 60-day continuance. AUSA will provide Goldstein w/voluntary discovery and provide proposed plea agreement. STAUTS CONF SET FOR 2-15-05 at 10:30 am (as to deft Lam). Time excluded as to deft Lam (to facilitate negotiations re: possible plea disposition) --30 days remain, STA clock. AUSA J. Karaszewski, A. Goldstein w/deft and USPO A.M. Serotte. (LL,) Modified on 12/22/2004 (LL,). [1:04-mj-01213-LGF] (Entered: 12/16/2004)
12/14/2004		(Court only) ***Excludable started as to Bo Lam: 12-14-04 to 2-15-05. (LL,) [1:04-mj-01213-LGF] (Entered: 12/16/2004)
12/14/2004	●	Set/Reset Hearings as to Bo Lam:, Terminate Deadlines and Hearings as to Bo Lam: Status Conference set for 2/15/2005 10:30 AM before Hon. Leslie G. Foschio. (LL,) [1:04-mj-01213-LGF] (Entered: 12/22/2004)
12/14/2004	●	E-Filing Error Corrected: Preliminary Examination set for 2-15-05 at 10:30 am corrected to Status Conference due to Waiver of PE. Modified on 12/22/2004 (LL,). (LL,) [1:04-mj-01213-LGF] (Entered: 12/22/2004)
12/14/2004	●6	WAIVER of Preliminary Examination or Hearing by Bo Lam. (LL,) [1:04-mj-01213-LGF] (Entered: 12/22/2004)
12/14/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Detention Hearing as to Hung The Nguyen held on 12/14/2004. Preliminary Examination set for 12/28/2004 11:00 AM before Hon. Leslie G. Foschio. Mistrett proffer (including phone numbers of potential

		bail sureties in California in deft's cell phone seized at time of arrest). Gov't will provide phone numbers. Mistrett proffer cont'd. Gov't proffers Criminal Complaint to clarify earlier proffer. Mistrett proffer cont'd. PE SET FOR 12-28-04 at 11 am. TIME NOT EXCLUDED. AUSA DIRECTED TO PREPARE OTP FOR DEFT'S APPEARANCE: Deft remanded. AUSA J. Karaszewski, J. Mistrett w/deft Nguyen and USPO A.M. Serotte. (LL,) [1:04-mj-01213-LGF] (Entered: 12/21/2004)
12/14/2004		(Court only) ***Excludable started as to Hung The Nguyen: 12-14-04 to 12-28-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/21/2004)
12/21/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Atty Status Conference as to Tuyen Tran held on 12/21/2004. Further Atty Status Conference set for 12/28/2004 03:00 PM before Hon. Leslie G. Foschio. AUSA J. Violanti for AUSA J. Karaszewski, J. LaTona w/deft. LaTona is not retained yet -- letter of engagement expected soon -- deft requires Vietnamese interpreter. COURT DIRECTS DEFT TO APPEAR AT NEXT COURT PROCEEDING -- FURTHER ATTY STATUS CONF SET FOR 12-28-04 AT 3 PM. Time excluded (obtaining counsel) -- 30 days remain, STA clock. Deft waives righth to early PE. (LL,) [1:04-mj-01213-LGF] (Entered: 12/21/2004)
12/21/2004		(Court only) ***Excludable started as to Tuyen Tran: 12-21-04 to 12-28-04. (LL,) [1:04-mj-01213-LGF] (Entered: 12/21/2004)
12/23/2004	●8	ORDER OF DETENTION as to Bo Lam . Signed by Judge Leslie G. Foschio on 12/23/04. (Copies to USPO & USMS) (LL,) [1:04-mj-01213-LGF] (Entered: 01/11/2005)
12/28/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Status Conference as to Hung The Nguyen held on 12/28/2004. Preliminary Examination set for 2/15/2005 10:30 AM before Hon. Leslie G. Foschio. AUSA J. Karaszewski and J. Mistrett w/deft. Mistrett rpts on conversation w/AUSA -- Mistrett requested AUSA not present case to GJ -- Mistrett reqs 2-15-05 continuance to coincide w/co-deft Lam return date). AUSA has not provided informal discovery to date but will do so immediately. PE SET FOR 2-15-05 at 10:30 am. Deft waives appearance. Time excluded (pursuit of plea disposition, obtaining informal discovery, etc.) -- 30 days remain, STA clock. Deft remanded. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)
12/28/2004		(Court only) ***Excludable started as to Hung The Nguyen: 12-28-04 to 2-15-05. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)
12/28/2004	●7	WAIVER of Preliminary Examination or Hearing by Hung The Nguyen. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)
12/28/2004	●	Set/Reset Hearings as to Hung The Nguyen: Status Conference set for 2/15/2005 10:30 AM before Hon. Leslie G. Foschio. Deft waived PE -- waiver executed. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)
12/28/2004	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Further Atty Appearance as to Tuyen Tran held on 12/28/2004.

		<p>Preliminary Examination/Status Conference set for 2/8/2005 02:00 PM before Hon. Leslie G. Foschio. AUSA J. Karaszewski, J. LaTona w/deft and Vietnamese Interp by court direction & sworn, Ann Yu. LaTona rpts funds expected from def't's niece -- none rec'd to date although niece represents same was mailed w/explanation. IF RETAINMENT IS QUESTIONABLE OR NOT EXISTENT, LaTONA IS TO NOTIFY THE COURT IN WRITING. Deft is not requesting an early PE -- def't reqs continuance for status conf to mid to early Feb. 2005 to accommodate jury selection calendar on 2-15-05 before RJA (USA v. Congi, et al, 02-CR-73A). STATUS CONF PE SET FOR 2-8-05 at 2 pm. No voluntary discovery has been provided to date but will be provided ASAP. Time excluded (informal discovery and possible plea disposition, etc.) -- 30 days remain STA clock. Deft is required to appear at next court appearance. Interpreter contracted for next court appearance. Court directs def't to look into atty retainment situation. Court further addresses def't as to her understanding of previous representations on the record w/assistance of interp -- def't states she understands. Bail is satisfactory. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)</p>
12/28/2004		<p>(Court only) ***Excludable started as to Tuyen Tran: 12-28-04 to 2-8-05. (LL,) [1:04-mj-01213-LGF] (Entered: 12/28/2004)</p>
01/12/2005	9	<p>ORDER OF DETENTION as to Hung The Nguyen . Signed by Judge Leslie G. Foschio on 1/12/05. (Copies to USPO & USMS) (LL,) [1:04-mj-01213-LGF] (Entered: 01/12/2005)</p>
02/08/2005	9	<p>Minute Entry for proceedings held before Judge Leslie G. Foschio :Status Conference as to Tuyen Tran held on 2/8/2005. AUSA M. Kane for AUSA J. Karaszewski and J. LaTona. Deft not present due to administrative error (no order of parole at the border to allow def't to come into the United States -- def't not allowed to enter the United States). CRD advises the court of her telephone conversation with Supervisor Mullen at the Peace Bridge who explained procedure which allows an individual entry into the United States. Upon court query, def't waives her appearance. LaTona states there is not a problem with atty retainment. LaTona rpts on status of the USA v. Congi case (which impacted on instant case scheduling today vs. 2-15-05 appearance w/co-defts). Court directs AUSA to follow thru on paperwork for def't's appearance today, etc. AUSA rpts co-defts represented by A. Goldstein and Mistrett are involved in plea discussions which will affect disposition of this def't's case -- reqs for continuance to accommodate co-defts' case. PE SET FOR 5-10-05 at 10 am. Attys admonished as to court's case management policy. Time excluded (informatl discovery, plea negotiations, etc.) -- 30 days remain, STA clock. Bail is satisfactory. Vietnamese Interpreter, Ann Yu arrived at approx 2:25 pm -- court directs interp to sign Interpreter Claim for Compensation for Services form for payment. Court directs def't's appearance only if there is an indictment w/assistance of interpreter -- otherwise, def't's presence is not necessary. (SDW) [1:04-mj-01213-LGF] (Entered: 02/14/2005)</p>
02/08/2005		<p>(Court only) ***Excludable started as to Tuyen Tran: 2/8/2005 to</p>

		5/10/2005. (SDW) [1:04-mj-01213-LGF] (Entered: 02/14/2005)
02/15/2005	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Status Conference as to Bo Lam, Hung The Nguyen held on 2/15/2005. Preliminary Examination set for 4/19/2005 10:00 AM before Hon. Leslie G. Foschio. AUSA J. Karaszewski, J. Mistrett and deft Lam. Atty A. Goldstein not present. Court explains case to deft Lam case may be recalled in view of Goldstein absence contingent on Gov't rpt to the court. As to Lam -- AUSA rpts on written plea agreement provided to Goldstein -- case expected to disposed of by plea based on conversation btn parties -- expect case should be resolved in 60 days,As to Nguyen -- no written plea agreement has been provided although plea disposition has been discussed. Parties reqs 60-day continuance. PE SET FOR 4 -19-05 AT 10 AM. Time excluded (pursuit of potential plea disposition, etc.) -- 30 days remain, STA clock. Court query to deft Lam's understanding of proceeding -- deft states he understands and agrees to exclusion of time. (LL,) [1:04-mj-01213-LGF] (Entered: 02/22/2005)
02/15/2005		(Court only) ***Excludable started as to Bo Lam, Hung The Nguyen: 2-15-05 to 4-19-05. (LL,) [1:04-mj-01213-LGF] (Entered: 02/22/2005)
03/01/2005	●10	CJA 20 as to Bo Lam: Appointment of Attorney Alan D. Goldstein for Bo Lam. Voucher #050214000111.. Signed by Judge Leslie G. Foschio on 2/18/05. (LL,) [1:04-mj-01213-LGF] (Entered: 03/02/2005)
03/31/2005	●11	ORDER TO CONTINUE - Ends of Justice as to Bo Lam : Time excluded from 3/31/05 until 5/10/05. Status Conference reset for 5/10/2005 10:00 AM before Hon. Leslie G. Foschio.. Signed by Judge Leslie G. Foschio on 3/31/05. (LL,) [1:04-mj-01213-LGF] (Entered: 04/04/2005)
04/19/2005	●12	INDICTMENT as to Bo Lam (1) count(s) 1, Hung The Nguyen (2) count (s) 1, Tuyen Tran (3) count(s) 1. (SG,) (Entered: 04/19/2005)
04/19/2005	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Arraignment as to Hung The Nguyen (2) Count 1 held on 4/19/2005. Discovery Hearing set for 5/10/2005 10:00 AM before Hon. Leslie G. Foschio. AUSA J. Karaszewski and J. Mistrett w/deft. Deft acknowledges receipt of indictment, waives reading of indictment and entered plea of NOT GUILTY. Detention order is carried over from prior proceeding -- DEFT IS DETAINED UNDER THE INDICTMENT. Mistrett reqs motions be due in 6 weeks. Court suggests attys return on 5-10-05 to accommodate all parties setting scheduling order deadlines. AUSA will provide voluntary discovery in the interim. DISCOVERY STATUS CONF SET FOR 5-10-05 AT 10 AM. Time excluded (informal discovery, etc.) -- 70 days remain, STA clock. Deft is not required to be present. Deft remanded. (LL,) (Entered: 04/19/2005)
04/19/2005		(Court only) ***Excludable started as to Hung The Nguyen: 4-19-05 to 5-10-05. (LL,) (Entered: 04/19/2005)
04/20/2005		(Court only) ***Set/Clear Flags as to Tuyen Tran : VIETNAMESE INTERPRETER REQUIRED FOR DEFT TRAN. (LL,) (Entered: 04/20/2005)

		04/20/2005)
05/10/2005	●	Minute Entry for proceedings held before Judge Leslie G. Foschio :Arraignment as to Bo Lam (1) Count 1 and Tuyen Tran (3) Count 1 held on 5/10/2005. AUSA J.Karaszewski, A.Goldstein, Esq. w/ Dft Lam; J. LaTona, Esq. w/ Dft Tran. Interpreter Bong Vu sworn. Dfts advised of charges against them. Defts acknowledge receipt of indictment, waive reading. Defts plead not guilty. Dft Lam is detained. Bail continued for Dft Tran. DISCOVERY STATUS CONF. Scheduling order to be prepared and filed. Voluntary discovery due 5/31/2005. Motions due 6/30/2005. Responses due 7/20/2005. O/A 7/28/2005 at 10:00. Time excluded (interest of justice), 70 days remain. If no motions filed by 6/20/2005, parties directed to appear before WMS no later than 7/6/2005. (LL,) (Entered: 06/06/2005)
05/10/2005		(Court only) ***Excludable started as to Bo Lam, Tuyen Tran: 5-10-05 to 7-28-05. (LL,) (Entered: 06/06/2005)
05/10/2005		(Court only) ***Excludable started as to Hung The Nguyen: 5-10-05 to 7-28-05. (LL,) (Entered: 06/06/2005)
06/07/2005	● <u>13</u>	SCHEDULING ORDER as to Bo Lam, Hung The Nguyen, Tuyen Tran : Discovery due by 5/31/2005; Motions due by 6/30/2005; Responses due by 7/20/2005; Oral Argument set for 7/28/2005 10:00 AM before Hon. Leslie G. Foschio; if no motions are filed by aforesaid date, the parties are directed to meet with Judge Skretny on 7/6/05 at 9:00 A.M.; time excluded;Signed by Judge Leslie G. Foschio on 6/7/05. (DZ,) (Entered: 06/10/2005)
06/30/2005	● <u>14</u>	MOTION for Bill of Particulars, MOTION for Release of Brady Materials and preservation of rough notes, MOTION for Disclosure, MOTION for Discovery, MOTION for Joinder, MOTION for Leave to File further motions, MOTION for an order directing pre-trial notice as required by Federal Evidence Rule 807, MOTION to Sever, MOTION to Suppress by Tuyen Tran. (DZ,) (Entered: 06/30/2005)
06/30/2005	● <u>15</u>	MOTION for Discovery by Bo Lam. (Goldstein, Alan) (Entered: 06/30/2005)
07/01/2005	● <u>16</u>	MOTION for Discovery by Bo Lam. (Goldstein, Alan) (Entered: 07/01/2005)
07/01/2005		(Court only) E-Filing Error : <u>16</u> MOTION for Discovery, **document to be refiled to select multiple reliefs** (DZ,) (Entered: 07/05/2005)
07/01/2005	● <u>24</u>	ORDER as to Hung The Nguyen granting Defendant's request for an extension of time to file motions until 7/5/2005. Signed by Judge Leslie G. Foschio on 7/1/2005. (SDW) (Entered: 08/08/2005)
07/05/2005	● <u>17</u>	MOTION for Bill of Particulars, MOTION for Release of Brady Materials, MOTION for Discovery, MOTION for Joinder, MOTION by Bo Lam. (Goldstein, Alan) (Entered: 07/05/2005)
07/13/2005	● <u>18</u>	NOTICE OF ATTORNEY APPEARANCE: Timothy W. Hoover

		appearing for Hung The Nguyen (Hoover, Timothy) (Entered: 07/13/2005)
07/13/2005	● <u>19</u>	NOTICE by Hung The Nguyen (<i>of readiness for trial</i>) (Hoover, Timothy) (Entered: 07/13/2005)
07/18/2005	●	TEXT ORDER as to Hung The Nguyen. The Defendant has filed a <u>19</u> Notice of Readiness for Trial wherein he asserts that there is no basis for an exclusion of time from the Speedy Trial Clock therefore a trial date should be set. Time was excluded by the Magistrate Judge through 6/30/2005, at which time Defendant's co-defendants filed motions, triggering an exclusion under 18 U.S.C. Section 3161(h)(1)(F). Under 18 U.S.C. Section 3161(h)(7) and U.S. v. Brown, 2005 WL 1417116 (N.D.N.Y. June 14, 2005) and the authority cited therein, the exclusion of time as to the co-defendants is equally applicable to this Defendant. The request to set a trial date is DENIED as premature. SO ORDERED. Issued by the Hon. William M. Skretny on 7/15/2005. (MEAL,) (Entered: 07/18/2005)
07/19/2005	● <u>22</u>	ORDER REFERRING CASE to Magistrate Judge Leslie G. Foschio as to Bo Lam. Full pretrial, dispositive motion . Signed by Judge William M. Skretny on 7/15/05 nunc pro tunc 4/19/05. (Feldman, Sarah) (Entered: 07/26/2005)
07/20/2005	● <u>20</u>	ORDER as to Bo Lam, Tuyen Tran granting the Government an extension of time to file response to motions until 7/21/05 . Signed by Judge Leslie G. Foschio on 7/20/05. (DZ,) (Entered: 07/21/2005)
07/22/2005	● <u>21</u>	RESPONSE to Motion by USA as to Bo Lam, Hung The Nguyen, Tuyen Tran re <u>15</u> MOTION for Discovery, <u>16</u> MOTION for Discovery, <u>14</u> MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Release of Brady Materials MOTION for Disclosure MOTION for Disclosure MOTION for Discovery MOTION for Discovery MOTION for Joinder MOTION for Joinder MOTION for Leave to File MOTION for Leave to File MOTION for an order directing pre-trail notice as required by Federal Evidence Rule 807 MOTION for an order directing pre-trail notice as required by Federal Evidence Rule 807 MOTION to Sever Defendant MOTION to Sever Defendant MOTION to Suppress MOTION to Suppress, <u>17</u> MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Discovery MOTION for Joinder MOTION (Karaszewski, Joseph) (Entered: 07/22/2005)
07/27/2005	● <u>23</u>	ORDER REFERRING CASE to Magistrate Judge Leslie G. Foschio as to Hung The Nguyen, Tuyen Tran. Full pre-trial, dispositive motion . Signed by Judge William M. Skretny on 7/15/05 nunc pro tunc 7/19/05. (Feldman, Sarah) (Entered: 07/27/2005)
07/28/2005	● <u>25</u>	Minute Entry for proceedings held before Judge Leslie G. Foschio :ORAL ARGUMENT & ORAL ORDER as to Bo Lam, Tuyen Tran held on 7/28/2005 re: PT Mtns for Deft Lam (Doc. Nos. 15, 16 and 17); Tran (Doc. No. 14) & Gov't Response (Doc. No. 21) granted in part,

		denied in part, dismissed as moot. Evidentiary Hearing set for 10/27/2005 10:00 AM before Hon. Leslie G. Foschio. AUSA J. Karaszewski, A. Goldstein and J. LaTona w/deft Tran -- deft Trans requires translator but none available due to court not informed -- LaTona excuses deft. Goldstein states he also anticipated deft Lam's presence via OTP -- same was cancelled by CRD Lewis. (LL,) (Entered: 09/01/2005)
10/27/2005	●26	Minute Entry for proceedings held before Judge Leslie G. Foschio :Evidentiary Hearing as to Tuyen Tran held on 10/27/2005 Evidentiary Hearing cont'd to 11/8/2005 02:00 PM before Hon. Leslie G. Foschio. AUSA J. Karaszewski, J. LaTona w/deft, Vietnamese Interpreter - Bong Vu and Official Court Reporter, Karen Winter. SPECIAL AGENT, BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT ROBERT JOHNSTON SWORN & TESTIFIED. Gov't Exhibit 5 marked for identification. Gov't Exhibits 2 and 3 admitted into evidence. Time excluded. (LL,) (Entered: 11/03/2005)
10/27/2005		(Court only) ***Excludable started as to Tuyen Tran: 10-27-05 to 11-8-05. (LL,) (Entered: 11/03/2005)
11/09/2005	●27	TRANSCRIPT of Proceedings as to Tuyen Tran held on 10/27/05 before Judge Leslie G. Foschio. Court Reporter: Karen Winter. (pages 1-63) Transcript maintained in paper form in the Clerk's office. (DZ,) (Entered: 11/10/2005)
11/10/2005	●	TEXT ORDER as to Tuyen Tran re 26 Evidentiary Hearing continuing said hearing to 11-8-05 ay 2 pm. Evidentiary Hearing reset to 11/28/2005 02:00 PM before Hon. Leslie G. Foschio at request of Government without opposition. . Signed by Judge Leslie G. Foschio on 11/10/05. (LL,) (Entered: 11/10/2005)
11/28/2005	●28	ORDER as to Tuyen Tran re Text Order Setting Hearings for 11-28-05 at 2 pm: Evidentiary Hearing reset for 1/3/2006 02:00 PM before Hon. Leslie G. Foschio.. Signed by Judge Leslie G. Foschio on 11/28/05. COURT TO BE ADVISED BY 12-22-05 WHETHER OR NOT DEFT WILL BE PRESENT FOR PURPOSE OF FACILITATING OBTAINING VIETNAMESE INTERPRETER FOR HEARING. (LL,) Additional attachment(s) added on 12/15/2005 (LL,). (Entered: 12/15/2005)
11/28/2005	●	E-Filing Notification: Document #28 inadvertently not attached during docketing -- now is atached to minute enetry. (LL,) (Entered: 12/15/2005)
01/03/2006	●29	Minute Entry for proceedings held before Judge Leslie G. Foschio :Evidentiary Hearing as to Tuyen Tran held on 1/3/2006. Cont'd Testimony from 10-27-05 of SA, Bureau of Immigration and Customs Enforcement Robert Johnston and testimony of SA, Immigration & Customs Enforcement Lynn Noworyta. HEARING IS CONCLUDED SUBJECT TO ATTY LA TONA'S QUERY/REQS DISCLOSURE OF WIRE TAPE RECORDING -- DOC TO BE FILED NOT LATER THAN 1-13-06 AS TO ISSUE -- HEARING WILL BE DEEMED

		CLOSED ACCORDINGLY. BRIEFING SCHEDULE: Deft's memo of law due 2 wks after filing of transcript; Gov't memo of law due 2 wks thereafater. Dunaway issue discussed. Atty LaTona will address same in his memo of law. Gov't Exhibits 1 thru 4 admitted into evidence. No deft exhibits. AUSA J. Karaszewski, J. LaTona w/deft and VIETNAMESE T.I.P. INTERPRETER BY COURT DIRECTIOON & SWORN -- (MR. VI NGUYEN). (Court Reporter Michelle McLaughlin.) (LL,) (Entered: 01/04/2006)
01/18/2006	●30	Letter from Joseph LaTona, dated 1/12/06, to Judge Foschio (DZ,) (Entered: 01/19/2006)
03/14/2006	●31	TRANSCRIPT of Proceedings as to Tuyen Tran held on 1/3/06 before Judge Leslie G. Foschio. Court Reporter: Michelle McLaughlin. (pages 1-136) Transcript maintained in paper form in the Clerk's office. (DZ,) (Entered: 03/14/2006)
03/20/2006	●	TEXT ORDER SETTING BRIEFING SCHEDULE as to Tuyen Tran re 29 Conclusion of Evidentiary Hearing held 1-3-06 setting briefing schedule; [27] Transcript of evidentiary hearing held 10-27-05 and [31] Transcript of continuation of evidentiary hearing held 1-3-06: 3-28-06,Deft's memorandum of law due & 4-11-06, Gov't memorandum of law due. Deft is reminded to address Dunaway issue in his memorandum of law. SO ORDERED . Signed by Judge Leslie G. Foschio on 3/20/06. (LL,) (Entered: 03/20/2006)
03/21/2006	●32	MEMORANDUM IN SUPPORT re 14 MOTION by Tuyen Tran (DZ,) (Entered: 03/21/2006)
04/12/2006	●	TEXT ORDER as to Hung The Nguyen : Attorney Status Conference set for 4/20/2006 03:00 PM before Hon. Leslie G. Foschio. GOV'T DIRECTED TO PREPARE AN ORDER TO PRODUCE FOR DEFT'S APPEARANCE. VIETNAMESE INTEPRETER, MS. NHU QUYNH TRUONG WILL BE PRESENT. SO ORDERED. . Signed by Judge Leslie G. Foschio on 4/12/06. (LL,) (Entered: 04/12/2006)
04/12/2006	●33	ORDER as to Tuyen Tran re 29 Conclusion of Evidentiary Hearing held 1-3-06 ; [27] Transcript of evidentiary hearing held 10-27-05 and [31] Transcript of continuation of evidentiary hearing held 1-3-06 establishing briefing scheduling deadlines: Gov't Response/Memorandum now due by 4/14/2006.SO ORDERED . Signed by Judge Leslie G. Foschio on 4/12/06. (LL,) (Entered: 04/13/2006)
04/14/2006	●34	MEMORANDUM/BRIEF by USA as to Tuyen Tran (Karaszewski, Joseph) (Entered: 04/14/2006)
04/20/2006	●35	Minute Entry for proceedings held before Judge Leslie G. Foschio :Atty Status Conference as to Hung The Nguyen held on 4/20/2006. VIETNAMESE INTERPRETER BY COURT DIRECTION & SWORN -- (MS.) NHU QUYNH TRUONG. AUSA A. Gioia for AUSA J. Karaszewski, J. Mistrett w/deft and Vietnamese Interpreter. Deft's assertions re: irreconcilible differences with FPD Mistrett. If court does not hear from deft within a week or so, court will assume there is no

		longer an atty representation issue. Deft remanded. (LL,) (Entered: 04/26/2006)
05/01/2006	● <u>36</u>	Letter from Hung The Nguyen, dated 4-25-06, to Honorable Leslie G. Foschio, United States Magistrate Judge (LL,) (Entered: 05/03/2006)
05/02/2006	● <u>37</u>	ORDER as to Hung The Nguyen re <u>36</u> Letter : CJA Attorney Appointment Hearing set for 5/9/2006 11:00 AM before Hon. Leslie G. Foschio. Defendant shall be present. Government shall issue an order to produce to secure the Defendant's appearance. . Signed by Judge Leslie G. Foschio on 5/2/06. (LL,) (Entered: 05/03/2006)
05/09/2006	● <u>39</u>	Minute Entry for proceedings held before Judge Leslie G. Foschio :Attorney Appointment Hearing as to Hung The Nguyen held on 5/9/2006. AUSA J. Karaszewski, R Convissar w/deft and Vietnamese Interp, Bong Vu by court direction and sworn. ROBERT N. CONVISSAR ACCEPTS CJA ASSIGNMENT. Convissar states he has introduced himself to deft who has some familiarity with the English language. Court recommends Convissar utilize interp after proceeding to consult w/deft. Motions are pending as to co-defts Lam and Tran. Convissar has not rec'd the full file from the FPD -- reqs opportunity to review file, etc. Court states there are no motions filed for deft Nguyen and we are past the motion deadline -- Convissar acknowledges same. Case will be trial ready upon the court filing of its decision/rpt and recommendation (estimated mid summer), etc. Deft clarifies deft's first/last name. Deft remanded. (LL,) (Entered: 05/19/2006)
05/09/2006	●	Attorney update in case as to Hung The Nguyen. Attorney Robert N. Convissar for Hung The Nguyen added. Attorney Timothy W. Hoover and Joseph B. Mistrett terminated. Remark: Copy of 5-9-06 minute entry sent to Atty Convissar (CJA Apptmt effective as of 5-3-06). (LL,) (Entered: 05/19/2006)
05/15/2006	● <u>38</u>	ORDER Taking Motion Under Advisement as to Bo Lam (Motions -- Doc. Nos. 15, 16 and 17); as to Tuyen Tran (Motions -- Doc. No. 14). Time is excluded pursuant to Title 18, U.S.C, Section 3161(h)(8) for the excess period beyond the 30-day advisement period. On the basis of my findings that the motions are complex, that the court is currently engaged in an examination of the several issues presented by the motions, and further upon my findings that the interest of justice in a continuance overrides the Defendants and public's interest in a speedy trial, a CONTINUANCE IS GRANTED PURSUANT TO TITLE 18, SECTION 3161(h)(8)(A) UNTIL JUNE 14, 2006 FOR THE PURPOSE OF RENDERING A DECISION. SO ORDERED.. Signed by Judge Leslie G. Foschio on 5/15/06. (LL,) (Entered: 05/15/2006)
05/15/2006		(Court only) ***Excludable started as to Bo Lam, Tuyen Tran: 5-15-06 to 6-14-06. (LL,) (Entered: 05/16/2006)
05/23/2006	● <u>40</u>	REPORT AND RECOMMENDATIONS as to Bo Lam, Hung The Nguyen, Tuyen Tran re <u>14</u> MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Disclosure MOTION for

		Discovery MOTION for Joinder MOTION for Leave to File MOTION for an order directing pre-trial notice as required by Federal Evidence Rule 807 MOTION to Sever Defendant MOTION to Suppress MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Disclosure MOTION for Discovery MOTION for Joinder MOTION for Leave to File MOTION for an order directing pre-trial notice as required by Federal Evidence Rule 807 MOTION to Sever Defendant MOTION to Suppress Objections due ten days from receipt. Signed by Judge Leslie G. Foschio on 5/23/2006. (SDW) (Entered: 05/23/2006)
05/25/2006	● <u>41</u>	CJA 20 as to Hung The Nguyen: Appointment of Attorney Robert N. Convissar for Hung The Nguyen nunc pro tunc 5/3/06. Signed by Judge Leslie G. Foschio on 5/23/06. (DZ,) (Entered: 05/25/2006)
06/05/2006	● <u>42</u>	OBJECTION TO REPORT AND RECOMMENDATIONS <u>40</u> by Tuyen Tran (DZ,) (Entered: 06/05/2006)
06/19/2006	● <u>43</u>	TEXT SCHEDULING ORDER as to Tuyen Tran on <u>42</u> Objections to <u>40</u> Report and Recommendation. Response due by 6/30/2006. Reply due by 7/14/2006. Oral Argument is scheduled for 7/26/2006 at 9:00 AM before the Hon. William M. Skretny. SO ORDERED. Issued by the Hon. William M. Skretny on 6/15/2006. (MEAL) (Entered: 06/19/2006)
06/29/2006	●	CALENDAR ENTRY as to Tuyen Tran: Oral Argument on objections to Report and Recommendation is set for 7/26/2006 at 9:00 AM before the Hon. William M. Skretny. (MEAL) (Entered: 06/29/2006)
06/30/2006	● <u>44</u>	MEMORANDUM IN OPPOSITION [<i>Government's Response to Defendant's Objections to the Magistrate Judge's Report and Recommendation</i>] by USA as to Tuyen Tran (Karaszewski, Joseph) (Entered: 06/30/2006)
07/14/2006	● <u>45</u>	REPLY by Tuyen Tran re: <u>44</u> Memorandum in oppostion(DZ,) (Entered: 07/14/2006)
07/17/2006	● <u>46</u>	MOTION to Adjourn oral argument until 8/11/06 by Tuyen Tran. (DZ,) (Entered: 07/17/2006)
07/21/2006	● <u>47</u>	TEXT ORDER as to Tuyen Tran. IT HEREBY IS ORDERED that <u>46</u> Defendant Tuyen Tran's Motion to Adjourn the Oral Argument previously scheduled for 7/26/2006 is GRANTED. Oral argument on Defendant Tuyen Tran's <u>42</u> Objections to the Report and Recommendation is now scheduled for 8/11/2006 at 10:00 AM before the Hon. William M. Skretny. Time is excluded pursuant to 18 U.S.C. 3161 (h)(1)F and 18 U.S.C. 3161(h)(8)(B)(iv). SO ORDERED. Issued by the Hon. William M. Skretny on 7/20/2006. (Entered: 07/21/2006)
07/21/2006		(Court only) ***Excludable started as to Bo Lam, Hung The Nguyen, Tuyen Tran:, ***Excludable(s) stopped as to Bo Lam, Hung The Nguyen, Tuyen Tran (MEAL) (Entered: 07/21/2006)
08/11/2006	● <u>48</u>	Minute Entry for proceedings held before the Hon. William M.

		Skretny:Status Conference as to Tuyen Tran held on 8/11/2006.. Oral Argument on Defendant Tuyen Tran's <u>42</u> Objections to the Report and Recommendation scheduled for today is adjourned due to AUSA family emergency. Government instructed to contact the Court on 8/14/2006 with defense counsel to re-schedule. No appearances. (Court Reporter Maureen Pritchard.) (MEAL) (Entered: 08/15/2006)
08/25/2006	● <u>49</u>	NOTICE OF ATTORNEY APPEARANCE Frederick J. Platek appearing for USA. (Platek, Frederick) (Entered: 08/25/2006)
08/25/2006	●	Attorney update in case as to Bo Lam, Hung The Nguyen, Tuyen Tran. Attorney Joseph J. Karaszewski terminated. (DZ,) (Entered: 08/28/2006)
08/28/2006	● <u>50</u>	NOTICE as to Tuyen Tran. Oral Argument on Defendant Tuyen Tran's <u>42</u> Objections to Report and Recommendations is now scheduled for 9/5/2006 at 10:00 AM before the Hon. William M. Skretny. (MEAL) (Entered: 08/28/2006)
09/05/2006	● <u>51</u>	Minute Entry for proceedings held before the Hon. William M. Skretny:Oral Argument on Objections to the <u>40</u> Report and Recommendation of Judge Foschio as to Tuyen Tran held on 9/5/2006. Court reserves decision. A Status Conference/Decision is scheduled for 10/4/2006 at 9:00 AM before the Hon. William M. Skretny. Order to be issued directing other defense counsel on this case to appear at that time. Counsel to notify the Court by the end of the week if interpreters are necessary. For the govt. - Joseph Karaszewski. For the deft. - Joseph LaTona. Defendant not present.(Court Reporter Michelle McLaughlin.) (MEAL) (Entered: 09/06/2006)
09/07/2006	● <u>52</u>	ORDER as to Bo Lam, Hung The Nguyen, Tuyen Tran. IT HEREBY IS ORDERED that a Status Conference before the undersigned is scheduled for 10/4/2006 at 9:00 A.M.. All defense counsel and counsel for the government are DIRECTED to appear. Counsel must notify this Court by Friday 9/8/2006, if interpreters are necessary in this case. SO ORDERED. Issued by the Hon. William M. Skretny on 9/6/2006. (MEAL) (Entered: 09/07/2006)
09/11/2006	● <u>53</u>	MOTION to Adjourn Status Conference by Bo Lam. (Goldstein, Alan) (Entered: 09/11/2006)
09/14/2006	● <u>54</u>	MOTION to Adjourn Status Conference by Bo Lam. (Goldstein, Alan) (Entered: 09/14/2006)
09/26/2006	● <u>55</u>	SUPPLEMENTAL SUBMISSION by Tuyen Tran in support of <u>42</u> Oobjections to the Report and Recommendation. (DZ,) (Entered: 09/26/2006)
09/27/2006	● <u>56</u>	TEXT ORDER as to Bo Lam. IT IS HEREBY ORDERED that Defendant Bo Lam's <u>54</u> Motion to Adjourn the Status conference scheduled for 10/4/2006 is GRANTED. The Status Conference as to Defendants Hung The Nguyen and Tuyen Tran will remain as scheduled on 10/4/2006 at 9:00 a.m.. Counsel for Defendant Bo Lam shall appear on 10/13/2006 at 9:00 a.m.. SO ORDERED. Issued by the Hon. William

		M. Skretny on 9/26/2006. (MEAL) (Entered: 09/27/2006)
09/27/2006	●	Reset Hearings as to Bo Lam: Status Conference set for 10/13/2006 at 9:00 AM before the Hon. William M. Skretny. (MEAL) (Entered: 09/27/2006)
09/27/2006		(Court only) ***Motions terminated as to Bo Lam: 53 MOTION to Adjourn Status Conference. (DZ,) (Entered: 09/28/2006)
10/04/2006	●57	ORDER ACCEPTING Judge Foschio's 40 Report and Recommendation; DENYING Defendant Tuyen Tran's 42 Objections; DENYING Defendant Tuyen Trans' 14 Motion to Suppress. Signed by the Hon. William M. Skretny on 10/2/2006. (MEAL) (Entered: 10/04/2006)
10/04/2006	●58	Minute Entry for proceedings held before the Hon. William M. Skretny: Status Conference as to Hung The Nguyen, Tuyen Tran held on 10/4/2006. Plea discussions to be held. An additional Status Conference is scheduled for 10/13/2006 at 10:30 AM before the Hon. William M. Skretny to report on the results of said discussions. The time of the previously scheduled status conference as to co-defendant Lam on 10/13/2006 has been changed to 10:30 AM. Counsel to notify. Court denies government's request for an exclusion of time. Defendants Tuyen Tran and Hung The Nguyen present. Defendant Nguyen remanded. For the govt. - Richard Maigret for Frederick Platek. For the defts. - Joseph LaTona, Robert N. Convissar. (Court Reporter Michelle McLaughlin.) (MEAL,) (Entered: 10/05/2006)
10/18/2006	●59	NOTICE as to Bo Lam, Hung The Nguyen, Tuyen Tran The Status Conference that was previously scheduled for 10/13/2006 at 9:00 AM before the Hon. William M. Skretny and cancelled due to weather conditions has been RE-SCHEDULED to 10/25/2006 at 9:00 AM. (MEAL) (Entered: 10/18/2006)
10/25/2006	●60	Minute Entry for proceedings held before the Hon. William M. Skretny : Status Conference as to Bo Lam, Hung The Nguyen, Tuyen Tran held on 10/25/2006. Defendant Nguyen present. Plea proposals acceptable to Defendants Lam and Nguyen. A Change of Plea is set for 11/3/2006 at 9:30 AM before the Hon. William M. Skretny as to Defendant Lam. A Vietnamese interpreter is needed. A Change of Plea is set for 11/2/2006 at 9:30 AM before the Hon. William M. Skretny as to Defendant Nguyen. No interpreter is needed. A Status Conference is set for 11/6/2006 at 9:30 AM before the Hon. William M. Skretny as to defendant Tran. Attorney LaTona to discuss plea offer with Defendant Tran prior to appearance. Defendant Tran's appearance is waived at the status conference. Time to be excluded pursuant to 3161(h)(8)(A) to the next scheduled appearance dates as to each defendant. Defendant Nguyen remanded. The Government to provide copies of the plea agreements to the Court by Friday, 10/27/2006. For the govt. - Frederick Platek. For the defts. - Alan Goldstein, Joseph LaTona, Robert Convissar. (Court Reporter Michelle McLaughlin) (MEAL) (Entered: 10/25/2006)
11/01/2006	●61	SUPERSEDING MISDEMEANOR INFORMATION as to Hung The

		Nguyen (2) count(s) 1s. (DZ,) (Entered: 11/02/2006)
11/02/2006	62	PLEA AGREEMENT as to Hung The Nguyen (DZ,) (Entered: 11/02/2006)
11/02/2006	63	Minute Entry for proceedings held before the Hon. William M. Skretny: Misdemeanor Plea as to Hung The Nguyen held on 11/2/2006. Plea Agreement entered into and accepted by the Court. Defendant pled guilty to a One Count Information. Guilty plea accepted by the Court. Sentencing to take place immediately. For the govt. - Frederick Platek. For the deft. - Robert Convissar. (Court Reporter Michelle McLaughlin) (MEAL) (Entered: 11/06/2006)
11/02/2006	64	Minute Entry for proceedings held before the Hon. William M. Skretny : Sentencing held on 11/2/2006 for Hung The Nguyen on 1 Count Superceding Information (Misdemeanor). Presentence Report waived. Total Offense Level: 2. Criminal History Category: I. Fine waived. The Defendant is sentenced to the custody of the BOP for a term of time served. No Supervised Release to follow. \$25.00 Special Assessment imposed. Mandatory drug testing waived. The Court imposes sentence as stated. The Government moves for dismissal of the indictment. Court grants same. The Court directs preparation of a judgment of conviction. Defendant remanded. For the govt. - Frederick Platek. For the deft. - Robert Convissar. For the prob. - David Ball. (Court Reporter Michelle McLaughlin.) (MEAL,) (Entered: 11/06/2006)
11/03/2006	65	Minute Entry for proceedings held before the Hon. William M. Skretny: Status Conference as to Bo Lam held on 11/3/2006. Finalization of terms and conditions of plea ongoing. Acceptance of responsibility at issue. A Change of Plea is now scheduled for 11/8/2006 at 9:30 AM before the Hon. William M. Skretny. Time to be excluded pursuant to 3161(h)(8)(A). Defendant remanded. For the govt. - Frederick Platek. For the deft. - Alan Goldstein. (Court Reporter Michelle McLaughlin.) (MEAL) (Entered: 11/06/2006)
11/06/2006	66	Minute Entry for proceedings held before the Hon. William M. Skretny: Status Conference as to Tuyen Tran held on 11/6/2006. A Plea proceeding is scheduled for 11/30/2006 at 10:00 AM before the Hon. William M. Skretny. A Vietnamese interpreter is needed. For the govt. - Jorge deRosas for Frederick Platek. For the deft. - Joseph LaTona. (Court Reporter Michelle McLaughlin.) (MEAL) (Entered: 11/06/2006)
11/08/2006	67	PLEA AGREEMENT as to Bo Lam (DZ,) (Entered: 11/08/2006)
11/08/2006	68	Minute Entry for proceedings held before the Hon. William M. Skretny: Change and Plea as to Bo Lam held on 11/8/2006. Plea Agreement entered into by Bo Lam and accepted by the Court. Defendant pled guilty to Count 1 of the indictment. Guilty plea accepted by the Court. Sentencing is set for 2/27/2007 at 9:00 AM before the Hon. William M. Skretny. Defendant remanded. For the govt. - Frederick Platek. For the deft. - Alan Goldstein. (Court Reporter Michelle McLaughlin) (MEAL) (Entered: 11/08/2006)

11/08/2006	69	JUDGMENT as to Hung The Nguyen (2), Count(s) 1s; Additional certified copies forwarded to USPO, USM, US Attorney, Debt Collection, Financial Department. Signed by Judge William M. Skretny on 11/7/06. (DZ,) (Entered: 11/13/2006)
11/30/2006	70	INFORMATION as to Tuyen Tran (3) count(s) 1s. (JDK,) (Entered: 11/30/2006)
11/30/2006	71	PLEA AGREEMENT as to Tuyen Tran (JDK,) (Entered: 11/30/2006)
11/30/2006	72	Minute Entry for proceedings held before the Hon. William M. Skretny: Misdemeanor Plea as to Tuyen Tran held on 11/30/2006. Plea Agreement entered into and accepted by the Court. Defendant pled guilty to a One Count Information. Guilty plea accepted by the Court. Sentencing to take place immediately. For the govt. - Frederick Platek. For the deft. - Joseph LaTona. Vietnamese Interpreter - Sang Hooper. (Court Reporter Michelle McLaughlin) (MEAL) (Entered: 12/04/2006)
11/30/2006	73	Minute Entry for proceedings held before the Hon. William M. Skretny: Sentencing held on 11/30/2006 for Tuyen Tran. Presentence report waived. The Defendant is sentenced to the custody of the BOP for a term of time served and a 1 year term of Supervised Release. Supervised release to become unsupervised upon deportation. While on supervised release the defendant shall abide by the following conditions: The defendant shall not commit any crimes, federal, state or local. The defendant shall abide by the standard conditions of supervised release. The defendant shall not possess or use controlled substances. The defendant shall not possess or use a firearm or ammunition. The defendant shall not re-enter or attempt to re-enter the USA without the written consent of the Secretary of Homeland Security/Attorney General. The defendant is to pay a mandatory assessment fee in the amount of \$25.00. The Court imposes sentence as stated. The government moves for dismissal of the indictment. Court grants motion. The Court directs preparation of a judgment of conviction. For the govt. - Frederick Platek. For the deft. - Joseph LaTona. No appearance by probation. Interpreter - Sang Hooper. (Court Reporter Michelle McLaughlin) (MEAL) (Entered: 12/05/2006)
01/10/2007	74	JUDGMENT as to Tuyen Tran (3), Count(s) 1 Additional certified copies forwarded to USPO, USM, US Attorney, Debt Collection, Financial Department. . Signed by Judge William M. Skretny on 1/9/07. (JDK,) (Entered: 01/12/2007)
01/23/2007	75	ORDER as to Tuyen Tran DIRECTING refund of bail. Signed by the Hon. William M. Skretny on 1/22/2007. (MEAL) (Entered: 01/23/2007)
02/16/2007	76	TEXT ORDER as to Bo Lam. IT HEREBY IS ORDERED that Kevin Spitler, Esq. 181 Franklin St., Buffalo, NY 14202 is appointed to replace Alan Goldstein, Esq. in the representation of Defendant Bo Lam in this case. Counsel for the Government and the Defendant shall file their Statements with Respect to Sentencing Factors no later than 2/21/2007. Sentencing shall remain as scheduled on 2/27/2007 at 9:00 a.m.. SO

		ORDERED. Issued by the Hon. William M. Skretny on 2/16/2007. (MEAL) (Entered: 02/16/2007)
02/21/2007	77	STATEMENT WITH RESPECT TO SENTENCING FACTORS by USA as to Bo Lam (Platek, Frederick) (Entered: 02/21/2007)
02/26/2007		(Court only) ***Motions terminated as to Bo Lam: 40 REPORT AND RECOMMENDATIONS as to Bo Lam, Hung The Nguyen, Tuyen Tran re 14 MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Disclosure MOTION for Discovery MOTION for Joinder MOTION for Leave to File MOTION for an order, 17 MOTION for Bill of Particulars MOTION for Release of Brady Materials MOTION for Discovery MOTION for Joinder MOTION filed by Bo Lam,, 15 MOTION for Discovery filed by Bo Lam. (MEAL) (Entered: 02/26/2007)
02/27/2007	79	Minute Entry for proceedings held before the Hon. William M. Skretny:Sentencing held on 2/27/2007 for Bo Lam on Count 1 of the Indictment (Felony). Defense counsel provides Statement of Sentencing Factors to the Court. Courtroom Deputy to e-file same. Presentence report to be sealed - will be made available to counsel for appeal purposes only. The probation department's recommendation section which is a part of said presentence report will be kept under separate seal and will not be accessible to counsel. The Court grants the Government's Motion for a Downward Departure of an additional level for acceptance of responsibility. Total Offense Level: 19. Criminal History Category: II.The Defendant is sentenced to the custody of the BOP for a term of 33 months. Upon release from imprisonment the defendant shall be placed on supervised release for a term of 3 years. While on supervised release the defendant shall abide by the following conditions: The defendant shall abide by the standard conditions of supervised release as promulgated in the WDNY. The defendant shall not commit any crimes, federal, state or local. The defendant shall provide the U.S. Probation office with access to any requested personal and/or business financial information. The probation office is authorized to release financial information submitted by the defendant to the U.S. Attorney's Office for use in the collection of any unpaid fine or restitution. The defendant shall complete a drug/alcohol evaluation and enter into treatment as directed by the probation office. The defendant is not to leave treatment until discharge is agreed to by the probation office and the treating agency. Co-payment imposed based on ability to pay. The defendant shall be prohibited from possessing a firearm, ammunition or other dangerous device.The defendant shall not possess a controlled substance/drugs. The defendant shall demonstrate in good faith his effort to become employed and should obtain and maintain employment. The defendant shall submit to a search of his person, property, vehicle and abode, conducted as determined by the Probation Office. The Defendant shall pay a mandatory assessment in the amount of \$100.00. Cost of incarceration is waived. The Court imposes sentence as stated and directs preparation of a judgment of conviction. The defendant is remanded. For the govt. - Frederick Platek. For the deft. - Kevin Spitler. For prob. - Diane Root.

		(Court Reporter Michelle McLaughlin.) (MEAL) (Entered: 03/05/2007)
02/28/2007	<u>78</u>	STATEMENT OF PARTIES WITH RESPECT TO SENTENCING FACTORS by Bo Lam. (MEAL) (Entered: 02/28/2007)
03/08/2007	<u>80</u>	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Bo Lam (DZ,) (Entered: 03/08/2007)
03/08/2007	<u>81</u>	Sealed Document as to Bo Lam. (DZ,) (Entered: 03/08/2007)
03/08/2007	<u>82</u>	JUDGMENT as to Bo Lam (1), Count(s) 1. Additional certified copies forwarded to USPO, USM, US Attorney, Debt Collection, Financial Department. Signed by Judge William M. Skretny on 3/7/07. (DZ,) (Entered: 03/08/2007)
03/08/2007		(Court only) ***Set closed flag (DZ,) (Entered: 03/08/2007)
04/02/2007	<u>83</u>	CJA 20 as to Bo Lam: Appointment of Attorney Kevin W. Spitler for Bo Lam nunc pro tunc 2/21/07. Signed by Judge William M. Skretny on 3/18/07. (DZ,) (Entered: 04/02/2007)
05/08/2007	<u>84</u>	CJA 20 as to Bo Lam: Authorization to Pay Kevin W. Spitler Amount: \$ 358.80, Voucher # 070314000096 . Signed by Judge William M. Skretny on 5/2/07. (DZ,) (Entered: 05/08/2007)
05/08/2007	<u>85</u>	CJA 20 as to Bo Lam: Authorization to Pay Alan D. Goldstein Amount: \$ 3,166.05, Voucher # 050214000111. Signed by Judge William M. Skretny on 5/2/07. (DZ,) (Entered: 05/08/2007)
05/08/2007	<u>86</u>	TEXT ORDER as to Bo Lam. IT HEREBY IS ORDERED that James Harrington, Esq. 1620 Statler Towers, Buffalo, NY 14202-3093 is appointed nunc pro tunc in the representation of Defendant Bo Lam in this case for the period of 1/31/2007 to 2/ 21/2007. SO ORDERED. Issued by the Hon. William M. Skretny on 5/4/2007. (MEAL) (Entered: 05/08/2007)
05/24/2007	<u>87</u>	CJA 20 as to Bo Lam: Appointment of Attorney James P. Harrington nunc pro tunc 1/31/07. Signed by Judge William M. Skretny on 5/14/07. (DZ,) (Entered: 05/24/2007)
06/15/2007	<u>88</u>	CJA 20 as to Bo Lam: Authorization to Pay James Harrington. Amount: \$ 419.99, Voucher # 070510000032. . Signed by Judge William M. Skretny on 6/11/07. (JDK,) (Entered: 06/15/2007)
10/01/2007	<u>89</u>	Probation Jurisdiction Transferred to Northern District of California as to Bo Lam Transmitted Transfer of Jurisdiction form, with certified copies of indictment, judgment and docket sheet. (JDK) (Entered: 10/01/2007)